

Remarks

Applicant has reviewed the Office Action dated as mailed March 22, 2007. After the above amendments have been made, the present application contains claims 1, 3-5, 9-14, 22, 25-31, 33, 35-37, and 40-45. Claims 1, 9-11, 22, 28-31, 35, 37 and 43-45 have been amended. Claims 2, 6-8, 15-21, 23, 24, 32, 34, 38, 39, and 46-48 have been canceled.

Claim Rejections Under 35 U.S.C. §102

Claims 1, 3-5, 12-15, 17, 18, 21, 22, 25-27, 31, 33, 36, 37, and 40-42 were rejected under 35 U.S.C. §102(e) as being anticipated by Lenz (U.S. Patent 5,101,504, hereinafter “Lenz”). This rejection is respectfully traversed. Claim 1 has been amended to recite:

“a hands-free push-to-talk sensor or switch including at least one of an accelerometer, an air pressure sensitive switch, and a tilt sensor for sensing a change in a direction of force due to gravity, wherein the hands-free push-to-talk sensor or switch is operable by at least one of the accelerometer sensing an acceleration, the air pressure sensitive switch sensing a change in air pressure and the tilt sensor sensing a change in the direction of force due to gravity and is operable without a button or other actuator having to be bodily contacted and manually operated by a user;”

In contrast, Lenz in column 2 beginning at line 44 recites:

“In accordance with the present invention, the “push-to-talk” switch 24 is constructed with a push button, or switch actuator part 30 that is adapted to be actuated by the wearer lifting his shoulder. The wearer lifts his shoulder from the normal position Sa shown in phantom lines in FIG. 1 to a raised position Sb at which it presses against the switch actuating part 30 to depress and operate the switch 24. As shown in FIG. 2, the switch 24 is a push-button type with a plunger 32 that is depressed to close the switch.”

Applicant respectfully submits that Lenz does not teach or suggest a hands-free push-to-talk sensor or switch including at least one of an accelerometer, an air pressure sensitive switch, and a tilt sensor for sensing a change in a direction of force due to gravity. Additionally, Lenz does not teach or suggest that the hands-free push-to-talk sensor or switch is operable by at least one of the

accelerometer sensing an acceleration, the air pressure sensitive switch sensing a change in air pressure and the tilt sensor sensing a change in the direction of force due to gravity. Further, Lenz does not teach or suggest that the hands-free push-to-talk sensor or switch is operable without a button or other actuator having to be bodily contacted and manually operated by a user as provided in amended claim 1. As recited above, Lenz requires that his push-to-talk switch 24 is operated by a wearer lifting his shoulder to operate a push button or switch actuator part 30 as clearly shown in Figures 1 and 2 of Lenz. For all of these reasons, Applicant respectfully submits that amended claim 1 is patentably distinguishable over Lenz, and reconsideration and withdrawal of the 35 U.S.C. §102 rejection of independent claim 1 is respectfully requested.

Regarding the rejection of claims 3-5 and 12-14, these claims recite additional features which further patentably distinguish over Lenz. For example, claim 3 recites:

“wherein the push-to-talk sensor or switch comprises the tilt sensor, wherein a transmit mode of the communications device is activated in response to the tilt sensor being tilted more than a predetermined angle from a normalized angle of the direction of force due to gravity for a predetermined time duration.”

Claim 4 recites:

“means for maintaining the communications device in the transmit mode in response to at least one of detecting a voice signal or the tilt sensor being tilted more than the predetermined angle after a selected time delay.”

Additionally, claims 3-5 and 12-14 depend either directly or indirectly from independent claim 1. Because of this dependency, these claims contain all of the features of independent claim 1. Therefore, these claims are also submitted to be patentably distinguishable over Lenz, and reconsideration and withdrawal of the 35 U.S.C. §102 rejection of claims 3-5 and 12-14 is respectfully solicited.

Turning now to the rejection of independent claim 22 under 35 U.S.C. §102(e) as being anticipated by Lenz, claim 22 has been amended to recite:

“controlling operation of a communications device in response to detecting a presence or absence of at least one of the predetermined movement, the tilt angle caused by the change in the direction due to gravity, or the change in air pressure without a button or other actuator associated with the communications device having to be bodily contacted and manually operated by a user.”

As previously discussed, Lenz teaches that the push-to-talk switch 24 is constructed with a push button, or switch actuator part 30 that is required to be actuated by the wearer lifting his shoulder and bodily contacting and manually operating the push button or actuator part 30. Accordingly, Lenz does not teach or suggest controlling operation of a communications device without a button or other actuator associated with the communications device having to be bodily contacted and manually operated by a user as provided by the present invention as recited in amended claim 22. Accordingly, Applicant respectfully submits that independent claim 22 is patentably distinguishable over Lenz, and reconsideration and withdrawal of the 35 U.S.C. §102 rejection of claim 22 is respectfully requested.

Regarding the rejection of claims 25-27 under 35 U.S.C. §102(e) as being anticipated by Lenz, these claims recite additional features which further patentably distinguish over Lenz. Claims 25-27 recite similar features to claims 3-5. Additionally, these claims depend either directly or indirectly from independent claim 22, and by virtue of that dependency, contain all of the features of independent claim 22. Therefore, claims 25-27 are also submitted to be patentably distinguishable over Lenz, and reconsideration and withdrawal of the Section 102 rejection of claims 25-27 is respectfully solicited.

With respect to the rejection of independent claim 31 under 35 U.S.C. §102(e) as being anticipated by Lenz, claim 31 has been amended to recite similar features to independent claim 1. Therefore, independent claim 31 is respectfully submitted to be patentably distinguishable over Lenz for the same reasons as discussed with respect to claim 1. Reconsideration and withdrawal of the 35 U.S.C. §102 rejection of claim 31 is, therefore, respectfully requested.

Turning now to the rejection of claims 33 and 36 under 35 U.S.C. §102(e) as being anticipated by Lenz, these claims recite additional features which further patentably distinguish over Lenz. Additionally, claims 33 and 36 depend directly from independent claim 31. As a result of this dependency, claims 33 and 36 include all of the features of independent claim 31. Therefore, claims 33 and 36 are also submitted to be patentably distinguishable over Lenz, and reconsideration and withdrawal of the Section 102 rejection of these claims is respectfully requested.

With regard to the rejection of independent claim 37 under 35 U.S.C. §102(e) as being anticipated by Lenz, claim 37 has been amended to recite similar features to independent claim 22.

Therefore, independent claim 37 is submitted to be patentably distinguishable over Lenz for the same reasons as discussed with respect to independent claim 22. Reconsideration and withdrawal of the Section 102 rejection of independent claim 37 is respectfully solicited.

With respect to the rejection of claims 40-42 under 35 U.S.C. §102(e) as being anticipated by Lenz, these claims cite additional features that further patentably distinguish over Lenz. Claims 40-42 recite similar features to claims 25-27 and 3-5. Additionally, claims 40-42 depend either directly or indirectly from independent claim 37, and by virtue of that dependency, contain all of the features of independent claim 37. Therefore, these claims are also submitted to be patentably distinguishable over Lenz, and reconsideration and withdrawal of the 35 U.S.C. §102(e) rejection of claims 40-42 is respectfully requested.

Claim Rejections Under 35 U.S.C. §103

Claims 9-11, 20, 28-30, 35, and 43-45 were rejected under 35 U.S.C. §103(a) as being unpatentable over Lenz as applied to claims 1, 15, 22, 31, and 37, and further in view of Brenig (U.S. Patent 4,426,733, hereinafter “Brenig”) and Murray (U.S. Patent Pub. No. US2005/0136848, hereinafter “Murray”). This rejection is respectfully traversed.

Turning initially to the rejection of claims 9-11 under 35 U.S.C. §103(a) as being unpatentable over Lenz and further in view of Brenig and Murray, claim 9 has been amended to recite:

“wherein the push-to-talk sensor or switch comprises the air pressure sensitive switch, wherein a transmit mode of the communications device is activated in response to the user blowing on the air pressure sensitive switch with an air pressure greater than a preset air pressure.”

Claims 10 and 11 have been amended to recite similar features. Applicant respectfully submits that neither Brenig nor Murray teach or suggest that a transmit mode of the communications device is activated in response to a user blowing on the air pressure sensitive switch with an air pressure greater than a preset air pressure as recited in amended claim 9. The Office Action admits on page 11 that Lenz and Brenig do not teach or suggest an air pressure sensitive switch as recited in claim 9. Murray in paragraph [0033], lines 22-29 recites:

“A dynamic microphone is a microphone where the changing air pressure,

i.e., the sound energy, moves the diaphragm (paper or plastic), which moves the coil of the wire in the magnetic field of the permanent magnet of the dynamic microphone. Due to the movement of the coil through the magnetic field, an electrical current is produced in the coil of wire that represents the change in air pressure, *i.e.*, the sound energy.”

Applicant respectfully submits that Murray is merely describing how a microphone converts sound energy to an electrical signal. Murray does not teach or suggest a pressure sensitive switch as provided by the embodiment of the present invention recited in amended claim 9. The pressure sensitive switch of the present invention is distinguishable from the microphone of Murray. Additionally, Murray does not teach or suggest that a transmit mode of the communications device is activated in response to the user blowing on the air pressure sensitive switch with an air pressure greater than a preset air pressure as recited in amended claim 9. Accordingly, Applicant respectfully submits that claim 9 is patentably distinguishable over Lenz, Brenig and Murray, whether considered individually or combined.

Regarding claims 10 and 11 these claims recite similar features to claim 9 and depend directly from claim 9. Furthermore, claim 9 depends either directly from independent claim 1. By virtue of these dependencies, claims 9-11 contain all of the features of independent claim 1. Applicant respectfully submits that Brenig and Murray add nothing to the teaching of Lenz so as to render independent claim 1 unpatentable. For all of these reasons, claim 9-11 are respectfully submitted to be patentably distinguishable over Lenz, Brenig and Murray, and reconsideration and withdrawal of the 35 U.S.C. §103 rejection of claims 9-11 is respectfully requested.

Turning now to the rejection of claims 28-30 under 35 U.S.C. §103(a) as being unpatentable over Lenz and in further view of Brenig and Murray, claims 28-29 recite similar features to claims 9-11. Additionally, claims 28-30 depend either directly or indirectly from independent claim 22. Applicant respectfully submits that Brenig and Murray add nothing to the teachings of Lenz so as to render independent claim 22 unpatentable. Therefore, claims 28-30 are submitted to be patentably distinguishable over Lenz, Brenig and Murray, and reconsideration and withdrawal of the Section 103 rejection of claims 28-30 is respectfully requested.

With regard to the rejection of claim 35 under 35 U.S.C. §103(a) as being unpatentable over Lenz in view of Brenig and Murray, claim 35 has been amended to recite similar features to claim 9. Additionally, claim 35 depends directly from independent claim 31. Because of this dependency,

claim 35 contains all of the features of independent claim 31. Applicant respectfully submits that Brenig and Murray add nothing to the teachings of Lenz so as to render independent claim 31 unpatentable. For all of these reasons, claim 35 is submitted to be patentable over Lenz, Brenig and Murray, and reconsideration and withdrawal of the Section 103 rejection of claims 35 is solicited.

Regarding the rejection of claims 43-45 under 35 U.S.C. §103(a) as being unpatentable over Lenz in view of Brenig and Murray, claims 43-45 have been amended to recite similar features to claims 9-11. Additionally, claims 43-45 depend either directly or indirectly from independent claim 37, and by virtue of this dependency, contain all of the features of claim 37. Applicant respectfully submits that Brenig and Murray add nothing to the teachings of Lenz so as to render independent claim 37 unpatentable. Therefore, claims 43-45 are also submitted to be patentably distinguishable over the cited documents, and reconsideration and withdrawal of the Section 103 rejection of these claims is requested.

Conclusion

Entry of this amendment under Rule 116 is respectfully requested in that this amendment renders the claims remaining in the application in condition for allowance. Reconsideration and withdrawal of the rejections and allowance of the claims at the earliest possible date are respectfully requested.

If the Examiner wishes to discuss any aspects of this amendment, please contact the undersigned at the telephone number indicated below.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 13-4365.

Respectfully submitted,

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